

# CITY COUNCIL AGENDA

**APRIL 23, 2013**

**AMENDED AGENDA**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
XAVIER E. CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON NGUYEN, VICE MAYOR  
ROSE HERRERA  
DONALD ROCHA  
JOHNNY KHAMIS

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at [www.sanjoseca.gov/cityclerk](http://www.sanjoseca.gov/cityclerk). Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:00 a.m. - Closed Session, Call to Order in Council Chambers  
Open Session, Labor Negotiations Update (See Item 3.2)  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 4)**

Pastor Felipe Santos, South Bay Church

- **Pledge of Allegiance**

- **Orders of the Day**

\* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.  
**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

**DEFER ITEM 3.6 TO 5/7/13 AS RECOMMENDED BY THE RULES AND OPEN GOVERNMENT COMMITTEE**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the Assistance League of San José for supporting vital community services in the City since 1983 through a number of philanthropic programs. (Khamis)
- 1.2 Presentation of a commendation to San José Taiko on their 40<sup>th</sup> anniversary of contributing cultural tradition and artistic excellence to the City of San José. (Liccardo)  
\* **DROP**
- 1.3 Presentation of a proclamation declaring April 26, 2013 as “World Intellectual Property Day” in the City of San José. (Herrera)  
\* (Rules Committee referral 4/17/13)

# 2. CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29241 – Approving a Development Agreement with the F. James, Schmidt, Charles Seufferlein and Brendan and Kelley Properties, LLC, a Limited Liability Company, and Green Valley Corporation, a California Corporation, relative to the development of the Century Court Residential Towers Development Project on certain real property located in North San José and authorizing the City clerk to execute the Development Agreement and cause the same to be recorded with the Santa Clara County Recorder’s Office.

## 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of December 5, 2012.](#) (Mayor)
- (b) [Rules and Open Government Committee Report of December 12, 2012.](#) (Mayor)
- (c) [Rules and Open Government Committee Report of December 19, 2012.](#) (Mayor)

## 2.4 Mayor and Council Excused Absence Requests.

## 2.5 City Council Travel Reports.

## 2.6 Report from the Council Liaison to the Retirement Boards.

## 2. CONSENT CALENDAR

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### 2.7 Boards and Commissions Consolidation Ordinance.

**Recommendation:** Approve an ordinance regarding the consolidation of Boards and Commissions. (City Clerk)

\* **DEFERRED TO 5/7/13 PER CITY CLERK**

### 2.8 [Agreement with the County of Santa Clara for the Household Hazardous Waste Collection Program.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute the First Amendment to the Sublease Agreement between the City of San José and the County of Santa Clara for the use of City Property for the Household Hazardous Waste Collection Program; and
- (b) Execute any future amendments to the Sublease to modify the dates for delivery and payment of rent in the event of additional delays to the construction of the Environmental Innovation Center.

CEQA: Mitigated Negative Declaration, File No. PP09-138. (Economic Development)

### 2.9 [Councilmember Campos' Travel to Sacramento, CA.](#)

**Recommendation:** Approve travel by Councilmember Campos to Sacramento, CA on April 24, 2013 to attend the League of California Cities' Legislative Action Day and Reception. Source of Funds: Mayor & Council Travel Fund. (Campos)

\* (Rules Committee referral 4/17/13)

### 2.10 [Councilmember Herrera's Travel to Sacramento, CA.](#)

**Recommendation:** Approve travel by Councilmember Herrera to Sacramento, CA on April 24, 2013 to attend the League of California Cities' Legislative Action Day, Transportation, Communication, and Public Works Committee Meeting and the Women's Caucus. Source of Funds: Mayor & Council Travel Fund. (Herrera)

\* (Rules Committee referral 4/17/13)

### 2.11 [Mid-Autumn Festival and Resource Fair.](#)

**Recommendation:**

- (a) Approve the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (City Clerk)

\* (Rules Committee referral 4/17/13)

## 2. CONSENT CALENDAR

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### 2.12 May Day Rally at City Hall.

**Recommendation:** As recommended by the Rules and Open Government Committee on April 17, 2013:

- (a) Approve the May Day Rally at City Hall as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Campos/Kalra)

\* [Rules Committee referral 4/17/13 – Item G(5)]

### 2.13 Community Events Sponsored by District 4.

**Recommendation:** As recommended by the Rules and Open Government Committee on April 17, 2013:

- (a) Approve the Community Events Sponsored by District 4 outlined in the City Clerk's memorandum to the Rules and Open Government Committee as City sponsored Special Events; and
- (b) Approve and accept donations from various individuals, businesses, or community groups to support the events.

CEQA: Not a Project. (City Clerk)

\* [Rules Committee referral 4/17/13 – Item G(7)]

### 2.14 City Auditor Appointment and Compensation Package.

**Recommendation:** As recommended by the Rules and Open Government Committee on April 17, 2013, adopt a [resolution](#) reappointing Sharon Erickson as City Auditor and approving compensation for services as City Auditor for term beginning July 1, 2013 and ending June 30, 2017. (Mayor)

\* [Rules Committee referral 4/17/13 – Item G(8)]

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

**TO BE HEARD AT 9:00 A.M.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 [Actions Related to the Business Tax Exemption Processing Fee.](#)

- \* **Recommendation:** Adopt a [resolution](#) amending the Schedule of Fees and Charges (Resolution No. 72737, as amended) to eliminate the Business Tax Exemption Processing Fee, effective June 1, 2013. CEQA: Not a Project; File No. PP10-067(a), Adjustments to fees, rates and charges. (Finance)

#### 3.4 [Adoption of a Statement of Policy and City Council Questions for the Prospective Chief Information Officer for the Information Technology Department.](#)

**Recommendation:** Adopt a Statement of Policy and City Council Questions related to the selection of a prospective Chief Information Officer for the Information Technology Department as described in the staff memorandum, in compliance with City Charter Section 411.1. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

#### 3.5 [Recommendation to Support the Regulations of Menthol and Flavored Tobacco Products.](#)

[Memo from the Director of Intergovernmental Relations](#)

**Recommendation:** As referred by the City Council under Orders of the Day on March 12, 2013, consider adoption of a [resolution](#) in support of the Food and Drug Administration's regulation of menthol and flavored tobacco products. (Chu/Kalra/Campos)  
(Referred by City Council 3/12/13 – Orders of the Day)  
(Deferred from 4/9/13 – Item 3.4)

**TO BE HEARD LAST, NO EARLIER THAN 2:30 P.M.**

#### 3.6 [Resolution in Support of an Amendment to the United States Constitution.](#)

**Recommendation:** As referred by the City Council on March 26, 2013, refer to the Elections Commission or other appropriate commission the question of whether or not the City of San José should adopt a [resolution](#) calling for an amendment to the United States Constitution that states that, first, only individual human beings, not corporations no other collective entities, enjoy the First Amendment protections of the United States Constitution, and second, that money is not “speech” protected by the First Amendment. In the alternative, the City Council may adopt such a resolution. (Liccardo/Campos/Rocha)

[Referred by City Council 3/26/13 – Item 3.6(h)]

(Deferred from 4/9/13 – Item 3.5)

**RECOMMEND DEFERRAL TO 5/7/13 PER RULES AND OPEN GOVERNMENT COMMITTEE**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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## 5. NEIGHBORHOOD SERVICES

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### 5.1 Actions Related to Adjustment to Parkland Fees

**Recommendation:** Conduct a Public Hearing and adopt a [resolution](#) to be effective August 1, 2013 to:

- (a) Set forth the new Schedule of Parkland Fees charged pursuant to the San José Municipal Code Chapters 14.25 (“Park Impact Ordinance”) and 19.38 (“Parkland Dedication Ordinance”) to reflect the 2012 Residential Land Value Study; and
- (b) Authorize the City Manager to determine the applicable parkland fees for any residential units in the City of San José that are not included in the Schedule of Parkland Fees based on the nearest Multiple Listing Service zones.

CEQA: Not a Project, File No. PP10-067(a), Adjustments to fees, rates, and charges. (Parks, Recreation and Neighborhood Services)

\* **RECOMMEND DEFERRAL TO 4/30/13 PER ADMINISTRATION**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Award of Contract for the Airport Taxiway W Extension D-G Project.

**Recommendation:**

- (a) Adopt a [resolution](#) authorizing the Director of Public Works to determine the lowest responsive and responsible bidder and to decide any bid protests for the Taxiway W Extension D-G Project at the Norman Y. Mineta San José International Airport and to either: (i) award the contract to the lowest responsive and responsible bidder in an amount not to exceed \$10,095,583, contingent upon award and execution of an Airport Improvement Program (AIP) Grant from the Federal Aviation Administration; or (ii) reject all bids and re-bid the Project; and
- (b) Approve a contingency equal to fifteen percent of the award amount.

CEQA: San José International Airport Master Plan Update Final EIR, (File No. PP95-110), Resolution Nos. 67380 and 71451, and Addendum thereto (File No. PP 12-079). (Public Works/Airport)

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- **Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

- **Adjournment**

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.